

UNITED STATES DISTRICT COURT
FOR THE
DISTRICT OF MASSACHUSETTS

LAURA ALLEN, INDIVIDUALLY; And As
ADMINISTRATRIX OF THE ESTATE
OF DANIEL ALLEN; And AS NEXT FRIEND
OF TAYLOR ALLEN AND DANIELLE
ALLEN; And MARK ALLEN,

Plaintiffs;

v.

MARTIN SURFACING, A Division of
SOUTHWEST RECREATIONAL
INDUSTRIES; SOUTHWEST
RECREATIONAL INDUSTRIES, INC., d/b/a
MARTIN SURFACING,

Defendants.

CIVIL ACTION
No.: 05-40048-FDS

**DEFEENDANTS' MOTION TO PRECLUDE DR. CHRISTINE OLIVER'S
UNTIMELY OPINIONS**

Now comes the Defendant, Southwest Recreational Industries, Inc. (hereinafter "Defendant") and hereby moves this Honorable Court to preclude the Plaintiff from offering Dr. Oliver's untimely opinions.

This Court ordered that all expert opinions be produced by June 25, 2007. Both parties complied with this order, and indeed the parties further agreed to certain supplements regarding Dr. Ratner and Dr. Hashimoto.

However, Dr. Oliver was deposed on November 2, 2007 and referred to two studies that had not previously been provided to the Defendant. The Defendant reserved his right to suspend and/or move to preclude those portions of Dr. Oliver's opinion that

rely on the two studies, the Gunnarson Study and the Millul Study, which had not been previously provided.

The basis for the motion is timeliness. The Court set a timetable for both parties of expert opinions of depositions. The parties are compelled to adhere to the timetable. Reference to studies not previously revealed violates the order and is patently unfair to the Defendant. As such, any reference by Dr. Oliver to these studies should be precluded from being offered at the Daubert Hearing.

Dated: December 14, 2007

Respectfully submitted,
The Defendant,
Southwest Recreational Industries,
Inc. d/b/a Martin Surfacing

/s/ Michael L. Mahoney

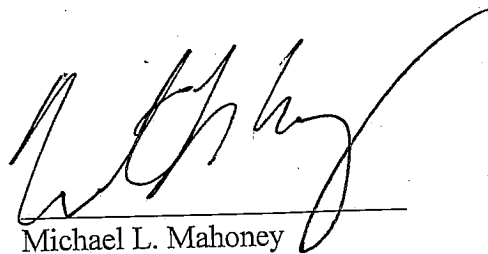
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CERTIFICATE OF SERVICE

I, Michael L. Mahoney, hereby certify that I have served a true copy of the within document this 14th day of December, 2007 via electronic mail, upon the following:

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